THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No. 6881 OF 2006:

DATED 29TH DAY OF JUNE, 2006

Between
B.Pathabbi Reddy …Petitioner

And

The Tirumala Tirupathi Devasthanams,
Rep. by its Executive Officer, Tirupathi and anr.

….Respondents.

THE HONOURABLE SRI JUSTICE R. SUBHASH REDDY

WRIT PETITION No. 6881 OF 2006:

ORDER:

The petitioner, who is working as Superintendent in the office of the Executive Engineer, Tirumala Tirupathi Devasthanams, Tirupathi, has filed this Writ Petition, questioning the order dated 25-2-2006 passed by the first respondent in proceedings Roc.No.DA1/003597/2006, by which, he was placed under suspension in exercise of powers under Rule 8(2)(a) of A.P. Civil Services (CCA) Rules, 1991.

The petitioner initially entered the service of the Tirumala Tirupathi Devasthanams as Attender on 16-9-1970 and after he worked in various posts, he was posted as Superintendent. One of his sons, by name, B.Lava Kumar Reddy was married to Smt. V.Jyothsna and there was a matrimonial dispute between his son and daughter-in-law. Ultimately, an application for grant of divorce was filed in O.P.No. 14 of 2006 on the file of the learned V

Additional District Judge, Tirupathi and the same was settled and divorce was obtained by the parties pursuant to the award of Lok Adalat dated 8-2-2006. But however, subsequently, on 18-2-2006, a complaint was filed before the police by Smt. V.Jyothsna against her earlier husband, the petitioner and his wife for the alleged dowry harassment and a crime was registered in Crime No.22 of 2006 on the file of the Station House Officer, West Police Station, Tirupathi. In connection with the said complaint, and, on the ground that the petitioner was arrested and was in judicial custody for 48 hours, contemplating disciplinary proceedings departmentally, impugned order dated 25-2-2006 is passed placing the petitioner under suspension, as per Rule 8(2)(a) of A.P. Civil Services (CCA) Rules, 1991.

It is the case of the petitioner, that the complaint lodged is false and incorrect, and, in any event, though he was placed under suspension on 25-2-2006, no disciplinary proceedings are initiated against him yet, and, in that view of the matter, continuing him under suspension is illegal and arbitrary. Further, it is submitted that the very complaint filed with the police is designed one to get the petitioner arrested on one ground or the other, and the same was filed after dissolution of marriage between the petitioner's son and the complainant, and, in such event, the respondents have without even examining the public interest and relevant facts and circumstances of the case, passed the impugned order.

Counter affidavit is filed on behalf of the respondents. As much as the petitioner was in the judicial custody for 48 hours as per the report of the Sub-Inspector of Police, West Police Station, Tirupathi, the petitioner is placed under suspension in view of

provision under Rule 8(2)(a) of A.P. Civil Services (CCA) Rules 1991. With regard to the allegation that the complaint alleged was malafide one, it is specifically averred in the counter affidavit that it is not to the knowledge of the respondents. Further, it is also averred in the counter affidavit that the respondents are in no manner equipped to examine the veracity of the complaint lodged against the petitioner to come to a conclusion regarding guilt or otherwise of the petitioner in the criminal case. Learned Counsel, Sri T.Suryakaran Reddy, appearing for the petitioner, has placed reliance on the judgment of the Division Bench of this Court in the case of *P.Rajender Vs. Union of India*[1], and, also on the judgment of the learned Single Judge of this Court in the case of *Md.Arifuddin Vs. The Director, Defence Metallurgical Laboratory, Kanchanbag, Hydera*bad, delivered in Writ Petition No. 16596 of 2004.

From the material on record, it appears, the son of the petitioner has filed an application seeking divorce and the same was pending in FCOP.No. 14 of 2006 on the file of the learned V Additional District Judge, Tirupathi. But however, the said dispute was referred to Lok Adalat on the request of the parties and the matter was settled and in terms of compromise, an award dated 8-2-2006 under Section 20 of the Legal Services Authorities Act, 1987 was passed by the Lok Adalat. Further, it appears, even thereafter, though such award was passed in terms of compromise dissolving the marriage, but however, the complaint is lodged on 18-2-2006. The impugned order of suspension came to be passed on 25-2-2006, placing the petitioner under suspension, contemplating initiation of disciplinary proceedings till conclusion of such proceedings. But, however, from the counter affidavit, it is clear that

as on today, no such proceedings have been initiated departmentally. It is not open for the employer to pass an order of suspension without even initiating any proceedings for enquiry departmentally. Though, the petitioner is placed under suspension, referring to provision under Rule 8(2)(a) of A.P. Civil Services (CCA) Rules, 1991, but, in the Division Bench judgment (1 supra) relied on by the learned Counsel for the petitioner, it is categorically held that the authorities have to consider public interest and also relevant facts and circumstances of the case before suspending the employee. So also to the same effect by the learned Single judge in the judgment referred to (2 supra) above. Though impugned order of suspension is passed contemplating departmental proceedings, but however, undisputedly no such proceedings are initiated even by this time. In fact, it is categorically stated in the counter affidavit that the respondents are in no manner equipped to examine the veracity of the complaint made against the petitioner. Further, in this case, complainant has already settled the dispute with her husband and an award is passed on 8-2-2006 dissolving the marriage, and, few days thereafter, this complaint is filed not only against the petitioner, but also against his wife and son. Further, the respondents have not taken any steps to consider public interest and also relevant facts and circumstances of the case and its effect on the service of the petitioner before passing the order of suspension.

For the foregoing reasons, the impugned order of suspension is liable to be set aside. Accordingly, impugned order dated 25-2-2006 passed by the first respondent in proceedings Roc.No.DA1/003597/2006, is set aside.

The Writ Petition is allowed. The respondents are directed to reinstate the petitioner into service within a period of two weeks

from today. However, the same shall be subject to the result of enquiry, if any, in connection with the alleged crime. No order as to costs.

JUSTICE R. SUBHASH REDDY

DATED: 29—06--2006.
Msnr.

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[1] 2001(5)ALD 290 (DB)